

EXHIBIT E

ORIGINAL

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

* * * * *

Ronald Shamon and *
Patricia Shamon * Civil Action
v. * No. 04-11674-WGY
United States of America *

* * * * *

Deposition of Dolores A. Kirby, R.N.

Monday, March 14, 2005

Hanify & King, P.C.

One Beacon Street - 21st Floor

Boston, Massachusetts 02108

----- J. EDWARD VARALLO, RMR, CRR -----

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Dolores A. Kirby, R.N.

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1 A. They're entered into the computer
2 initially.

3 Q. So on the day, December 7, 2001, after the
4 sigmoidoscopy procedure you sat down at a typewriter
5 and typed in this note?

6 A. Yes.

7 Q. The note refers to a procedure -- I'll
8 start from the beginning. At the bottom of the
9 first page it says "Procedure reviewed with patient
10 regarding prep, procedure for flexible
11 sigmoidoscopy, and patient expectations. Patient
12 verbalized understanding of procedure. Consent
13 signed and witnessed." Do you see that?

14 A. Mm-hmm.

15 Q. Is that a yes? You have to answer yes or
16 no; you can't say mm-hmm.

17 A. Yes, I do.

18 Q. Were you the one back in December of 2001
19 who obtained Mr. Shamon's consent for the procedure?

20 A. No.

21 Q. Who would have done that?

22 A. The physician, the attending physician.

23 Q. The attending physician?

24 A. Or the fellow. I think the fellows can

Dolores A. Kirby, R.N.

21

1 get it too, either one. But it's usually cosigned
2 by the attending.

3 Q. Describe for me the procedure back in
4 December of 2001 for obtaining a patient's consent
5 to a procedure.

6 A. The physician gets the consent form and
7 explains the procedure to the patient and has the
8 patient sign.

9 Q. Do you have a standard consent form at the
10 V.A. Hospital for sigmoidoscopy procedures?

11 A. Yes.

12 Q. Are you familiar with that form?

13 A. Yes.

14 Q. And your understanding or your
15 recollection of the practice back in December of
16 2001 is that either the attending or the fellow
17 would review the risks and complications of the
18 procedure with the patient?

19 A. Mm-hmm.

20 Q. And then obtain the patient's signature.
21 Is that correct?

22 A. Yes.

23 Q. And were you typically present during that
24 process?



WHAT IS FLEXIBLE SIGMOIDOSCOPY?

Flexible sigmoidoscopy is a procedure that enables your physician to examine the lining of the rectum and colon (large bowel) by inserting a flexible tube that is about the thickness of your finger into the anus and advancing it slowly into the rectum and lower part of the colon. ■

WHAT PREPARATION IS REQUIRED?

The rectum and lower colon must be completely empty of waste material for the procedure to be accurate and complete. Your physician will give you detailed instructions regarding the cleansing routine to be used. In general, preparation consists of one or two enemas prior to the procedure but may include laxatives or dietary modifications. In some circumstances, for example, if you have acute diarrhea or colitis, your physician may advise you to forego any special preparation before the examination. ■

WHAT ABOUT MY CURRENT MEDICATIONS?

Most medications can be continued as usual; however, drugs such as aspirin or anticoagulants (blood thinners) are examples of medications whose use should be discussed with your physician prior to the examination. It is also essential that you alert your doctor if you require antibiotics prior to undergoing dental procedures, since you may need antibiotics prior to sigmoidoscopy as well. ■

WHAT CAN BE EXPECTED DURING FLEXIBLE SIGMOIDOSCOPY?

Flexible sigmoidoscopy is usually well-tolerated and rarely causes much pain. There is often a feeling of pressure, bloating or cramping at various times during the procedure. You will be lying on your side while the sigmoidoscope is advanced through the rectum and colon. As the instrument is withdrawn, the lining of the intestine is carefully examined. The procedure usually takes anywhere from 5 to 15 minutes. ■

WHAT IF THE FLEXIBLE SIGMOIDOSCOPY SHOWS SOMETHING ABNORMAL?

If the doctor sees an area that needs evaluation in greater detail, a biopsy (sample of the colon lining) may be obtained and submitted to a laboratory for analysis. If polyps are found, they can be biopsied, but usually are not removed at the time of the sigmoidoscopy. Certain small polyps ("hyperplastic" by biopsy analysis) may not require removal. Your doctor will likely request that you have a colonoscopy (a complete examination of the colon) to remove any large polyp that is found, or any small polyp that is "adenomatous" after biopsy analysis. Colonoscopy can also check the remainder of your colon for the presence of other polyps. ■

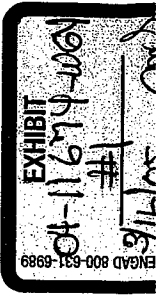
WHAT HAPPENS AFTER SIGMOIDOSCOPY?

After sigmoidoscopy, the physician will explain the results to you. You may have some mild cramping or bloating sensation because of the air that has been passed into the colon during the examination. This will disappear quickly with the passage of gas. You should be able to eat and resume your normal activities after leaving your doctor's office or the hospital. ■

WHAT ARE THE POSSIBLE COMPLICATIONS OF FLEXIBLE SIGMOIDOSCOPY?

Flexible sigmoidoscopy and biopsy are generally safe when performed by physicians who have been specially trained and are experienced in these endoscopic procedures. Possible complications include a perforation (tear through the bowel wall) and bleeding from the site of a biopsy.

Although complications after flexible sigmoidoscopy are rare, it is important for you to recognize early signs of any possible complication. Contact your physicians if you notice any of the following symptoms: severe abdominal pain, fevers and chills, or rectal bleeding of more than one-half cup. It is important to note that rectal bleeding can occur even several days after a biopsy. ■



MEDICAL RECORD**REQUEST FOR ADMINISTRATION OF ANESTHESIA
AND FOR PERFORMANCE OF OPERATIONS AND OTHER PROCEDURES****A. IDENTIFICATION****1. OPERATION OR PROCEDURE****FLEXIBLE SIGMOIDOSCOPY WITH POSSIBLE BIOPSY AND/OR POLYPECTOMY****B. STATEMENT OF REQUEST**

1. The nature and purpose of the operation or procedure, possible alternative methods of treatment, the risks involved, and the possibility of complications have been fully explained to me. I acknowledge that no guarantees have been made to me concerning the results of the operation or procedure. I understand the nature of the operation or procedure to be the insertion of a flexible tube
(Description of operation or procedure in layman's language)
 with a light into the rectum, then advancing it to examine a portion of the colon (large intestine). Biopsies (small pieces of tissue) may be taken for microscopic examination. Potential complications include perforation (a hole in the colon), bleeding requiring transfusion, infection, drug reaction, the need for surgery, or death.

which is to be performed by or under the direction of Dr. _____

2. I request the performance of the above-named operation or procedure and of such additional operations or procedures as are found to be necessary or desirable, in the judgment of the professional staff of the below-named medical facility, during the course of the above-named operation or procedure.

3. I request the administration of such anesthesia as may be considered necessary or advisable in the judgment of the professional staff of the below-named medical facility.

4. Exceptions to surgery or anesthesia, if any, are: none

(If "none", so state)

5. I request the disposal by authorities of the below-named medical facility of any tissues or parts which it may be necessary to remove.

6. I understand that photographs and movies may be taken of this operation, and that they may be viewed by various personnel undergoing training or indoctrination at this or other facilities. I consent to the taking of such pictures and observation of the operation by authorized personnel, subject to the following conditions:

- The name of the patient and his/her family is not used to identify said pictures.
- Said pictures be used only for purposes of medical/dental study or research.

(Cross out any parts above which are not appropriate)**C. SIGNATURES**(Appropriate items in Parts A and B must be completed before signing)

1. COUNSELING PHYSICIAN/DENTIST: I have counseled this patient as to the nature of the proposed procedure(s), attendant risks involved, and expected results, as described above.

(Signature of Counseling Physician/Dentist)

2. PATIENT: I understand the nature of the proposed procedure(s), attendant risks involved, and expected results, as described above, and hereby request such procedure(s) be performed.

(Signature of Witness, excluding members of operating team)(Signature of Patient)(Date and Time)

3. SPONSOR OR GUARDIAN: (When patient is a minor or unable to give consent) I, _____ sponsor/guardian of _____ understand the nature of the proposed procedure(s), attendant risks involved, and expected results, as described above, and hereby request such procedure(s) be performed.

(Signature of Witness, excluding members of operating team)(Signature of Sponsor/Legal Guardian)(Date and Time)**PATIENT'S IDENTIFICATION**(For typed or written entries give: Name—last, first, middle; grade; date; hospital or medical facility)**REGISTER NO.****WARD NO.**

STANDARD FORM 522 (Rev. 10-76)
 General Services Administration &
 Interagency Comm. on Medical Records
 FIRM (41 CFR) 201-46.606
 522-110

*U.S.GPO:1983-0-343-134/74151

